

REMARKS

Applicants acknowledge receipt of the Examiner's Office Action dated December 12, 2006. This Non-Final Office Action rejected all claims pending at that time. Specifically, several claims were rejected under 35 U.S.C. §112, second paragraph. Claims 1, 4, 5, 8-12, 15, 18, 19, and 22-25 were rejected under 35 U.S.C. §103 as being unpatentable over U.S. Patent No. 6,643,671 issued to Milillo et al. (Milillo) in view of the Veritas article entitled "Veritas FlashSnap Point-In-Time Copy Solutions" dated June 24, 2002 (Veritas FlashSnap). Claims 6, 7, 13, 20, 21, and 26 were rejected under 35 U.S.C. §103 as being unpatentable over Milillo and Veritas FlashSnap as applied to Claims 1, 4, 5, 8-12, 15, 18, 19, and 22-25 and further in view of U.S. Patent No. 6,691,245 issued to DeKoning (DeKoning). In light of the foregoing amendments and following remarks, Applicants respectfully request the Examiner's reconsideration and reexamination of all pending claims.

In rejecting several claims under 35 U.S.C. §112, second paragraph, the Office Action noted several antecedent basis issues. Applicants have corrected the antecedent basis issues noted in the Office Action. As such, Applicants submit that all claims are in compliance with 35 U.S.C. §112, second paragraph.

Each of the independent claims was rejected under 35 U.S.C. §103 as being unpatentable over cited sections of Milillo and Veritas FlashSnap. Applicants have amended the independent claims to add features which are not taught or fairly suggested in the cited sections of Milillo and Veritas FlashSnap. For example, independent Claim 1 has been amended to recite "refreshing the second data volume to the data contents of the first data volume that existed at time T" and "modifying data of the first data volume while the second data volume is being refreshed to the data contents of the first data volume that existed at time T." Claim 1 now makes clear that the first data volume is being modified while the second volume is being refreshed to the data contents of the first volume that existed at time T. As noted in paragraph 2 of the instant application, the prior art suffers from the problems that when one data volume is being refreshed to the data contents of another data volume, write and/or read access to the other data volume is denied until the refreshing process has completed. Claim 1, as amended, recites features of an invention that enables a write access to the first volume while a second volume is being refreshed to the data contents of that first volume. Applicants assert that the limitations of amended Claim

1 are not found or fairly suggested in the sections of Milillo and Veritas FlashSnap cited in the Office Action.

Independent Claim 15 has been amended to include limitations identical or similar to those limitations added to independent Claim 1. Applicants assert that independent Claim 15, as amended, is not taught or fairly suggested in the sections of Milillo or Veritas FlashSnap cited in the Office Action.

For the reasons set forth above, Applicants assert that independent Claims 1 and 15 are patentably distinguishable over the cited sections of Milillo and Veritas FlashSnap. The remaining claims depend directly or indirectly from independent Claims 1 and 15. Insofar as independent Claims 1 and 15 have been shown to be patentably distinguishable over the cited sections of Milillo and Veritas FlashSnap, it follows that the remaining dependent claims are likewise patentably distinguishable.

CONCLUSION

Applicants submit that all claims are now in condition for allowance, and an early notice to that effect is earnestly solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is requested to telephone the undersigned.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia, 22313-1450, on March 12, 2007.


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3/12/07
Date of Signature

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